

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, AICP, Case Manager
 Joel Lawson, Associate Director Development Review
DATE: November 6, 2012
SUBJECT: BZA Case 18434, 4817 U Street, N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the requested special exception pursuant to §§ 213 and 3104 to continue the use of the property as a parking lot for CVS, subject to the conditions listed in this report.

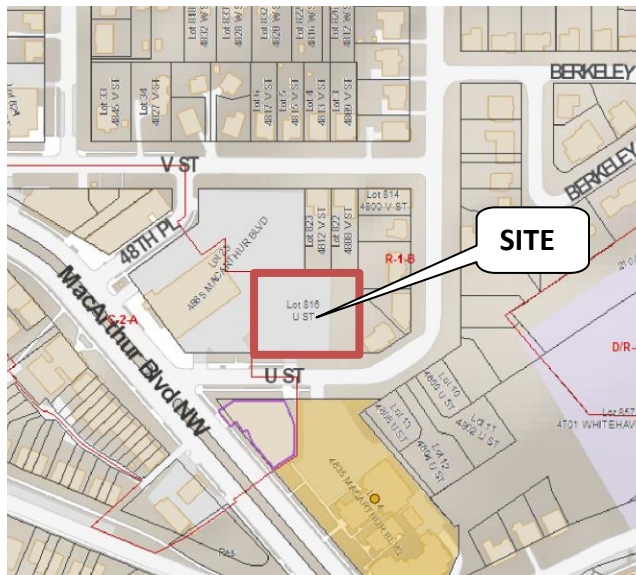
II. LOCATION AND SITE DESCRIPTION

Address	4817 U Street, N.W.
Legal Description	Square 1389 , Lot 816
Ward	3
Lot Characteristics	Rectangular lot abutting U Street to the south, single family dwellings to the north and east and retail development to the north and west
Zoning	R-1-B – Parking lots permitted subject to special exception approval
Existing Development	78-space surface parking lot enclosed by metal railing, masonry wall and landscaping
Historic District	None
Adjacent Properties	<p>To the north: Adjacent to a commercial development consisting of a grocery store and accessory parking lot, zoned C-2-A, and two single family detached dwellings, zoned R-1-B.</p> <p>To the south: Across U Street, Our Lady of Victory Church, zoned R-1-B, and CVS Pharmacy, zoned C-2-A.</p> <p>To the east: Adjacent to three single family detached dwellings, zoned R-1-B.</p> <p>To the west: Adjacent to commercial development consisting of a grocery store and accessory parking lot, zoned C-2-A.</p>

Surrounding Neighborhood Character	Commercial uses are located adjacent to the north and west property lines and single family detached dwellings are located along the north and east property lines.
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III. APPLICATION IN BRIEF

The applicant, First F.S.K. Limited Partnership, is seeking a special exception under § 213 to continue the use of a surface parking lot pursuant to 11 DCMR 3104.1. The property has operated as a surface parking lot since November 22, 1946, and has obtained special exceptions as required to continue the use. The lot contains 78 parking spaces and is currently leased by CVS. The applicant is not proposing any physical or operational modifications to the site.



Zoning and Vicinity Map



2010 Aerial

IV. BACKGROUND

The property has been in use as a parking lot since 1946 as permitted through a series of special exception approvals granted by the Board of Zoning Adjustment. In 1997, CVS acquired the MacArthur Theatre and parking lot, for which the first special exception was requested in 1998. The Board approved the special exception for three years with conditions on March 4, 1998, by bench decision (Order No. 16311). On September 17, 2002, the BZA made a bench decision to approve the parking lot (Order No. 16912). The most recent special exception request was approved December 10, 2007, by Order No. 17680, with the following conditions:

1. Approval shall be for FIVE YEARS from the final date of this order.
2. All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather *impervious, or acceptable all-weather pervious, surface*. In addition to traditional impervious surfaces, allowable all-weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.

3. The parking lot shall be designed so that no vehicles or any part of a vehicle projects over any lot line or building line.
4. No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located.
5. No vehicular entrance or exit shall be within forty feet of a street intersection as measured from the intersection of the curb lines extended.
6. Any lighting used to illuminate parking spaces shall be arranged so that all direct rays are confined to the surface of the parking lot.
7. The parking lot shall be landscaped with trees and shrubs covering a minimum of five percent of the total area of the lot. The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
8. A commercial parking lot management company will be engaged to manage the lot and maintain its appearance and condition.
9. The commercial parking lot management company shall institute a parking system designed to discourage commuter parking.
10. The parking restrictions will apply during the hours of 8 a.m. to 6 p.m.
11. An agent of the parking lot management company will patrol the lot during normal business hours to enforce the parking restrictions.
12. The parking lot management company will be responsible for daily maintenance of the lot, keeping it free of refuse and debris, and for power sweeping the lot four times per year and providing snow removal services when necessary.
13. The parking lot shall be cleaned every three days, and the landscaping maintained every ten days during the growing season.
14. The application shall maintain signage on the light posts on the interior of the lot stating that CVS is responsible for maintenance of the lot and providing a telephone number to call if the lot needs to be cleaned.
15. The applicant shall report to the ANC on a quarterly basis, in writing, regarding the condition of the lot and any other concerns raised by the community.

V. OFFICE OF PLANNING ANALYSIS

Section 213, Parking Lots (R-1)

213.1 Use as a parking lot shall be permitted as a special exception in an R-1 District if approved by the BZA under § 3104, subject to the provisions of this section.

Section 3104 states the Board can grant special exceptions given the proposal "...will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property..."

The requested special exception can be granted in harmony with the general purpose and intent of the Zoning Regulation/Maps as the site has been used as a parking lot for over 66 years (since 1946), through a series of special exception approvals. The request does not propose any operational changes.

- 213.2 *A parking lot shall be located in its entirety within two hundred feet (200 ft.) of an existing Commercial or Industrial District.*

The subject parking lot is entirely within two hundred feet of the existing C-2-A commercial district that fronts the subject parking lot and extends along MacArthur Boulevard, between U and V Streets.

- 213.3 *A parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial District.*

The subject parking lot is contiguous to a west adjoining parking lot for a Safeway store, which is in a C-2-A district.

- 213.4 *All provisions of chapter 23 of this title shall be complied with.*

The application is in compliance with the provisions of § 2303, as described below.

- 213.5 *No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use, and the present character and future development of the neighborhood will not be affected adversely.*

The applicant proposes to continue the existing use of surface parking, which has been the use since 1946. Given that physical or operational modifications to the lot are not proposed at this time, it is not anticipated that the use will adversely affect the character and future development of the neighborhood.

- 213.6 *The parking lot shall be reasonably necessary and convenient to other uses in the vicinity, so that the likely result will be reduction in overspill parking on neighborhood streets.*

The parking lot appears to be reasonably convenient and contributes toward the reduction of overspill parking on streets in the neighborhood by providing parking service for customers of local businesses in the vicinity. In addition, the site provides supplemental parking spaces for events and special services held at the Our Lady of Victory Church, which is located directly across U Street from the parking lot.

- 213.7 *A majority of the parking spaces shall serve residential uses or short-term parking needs of retail, service and public facility uses in the vicinity.*

It was noted in the request for special exception in 2007 that the parking lot was being increasingly used by commuters for all-day parking, leaving few spaces for patrons of CVS and other businesses. Since that time, the applicant has adopted a pay and display system, which has been successful in deterring all-day parking.

- 213.8 *Before taking final action on an application for use as a parking lot, the Board shall submit the application to the D.C. Department of Transportation for review and report.*

The Department of Transportation has not provided formal comments to the Office of Planning regarding the continuation of the lot. However, the Department of

Transportation has stated no objection to the continuation of the parking lot's use in previous applications.

Section 2303, Parking Lots

2303.1 A parking lot in any district shall conform to the following provisions:

- (a) All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.*

The lot is paved with bituminous materials, which form an all-weather surface.

- (b) The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line.*

An existing landscaped strip borders the southern and eastern edges, which prevents vehicles from projecting over the lot line. A metal railing similarly acts as a barrier on the north and west edges of the parking lot.

- (c) No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use is otherwise permitted in the district in which the parking lot is located.*

There are no other uses conducted on the subject parking lot, nor is there a structure on the lot.

- (d) No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended.*

There are no vehicular entrances or exits within 40 feet of a street intersection as measured from the intersection of the curb lines extended. The only entrance to the parking lot is from U Street, approximately 124 feet from the intersection of U Street and MacArthur Boulevard.

- (e) Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.*

There are four existing light poles installed along the center aisles of the parking lot that are shielded on each side so that light will be directed downward. As a result, there should not be any spillover light onto adjacent properties.

- (f) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscape shall be maintained in a health growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval.*

As demonstrated in the photographs provided by the applicant, the parking lot is well-maintained and free of refuse and debris. CVS has hired a maintenance contractor to keep the lot clean and the lot is inspected daily by store employees to provide supplemental cleaning services, as needed. In addition, landscaping with

trees and shrubs cover 25 percent of the lot area along the eastern property line and provides a buffer between the parking lot and adjacent residential uses.

2303.2 In addition to the requirements of § 2303.1, a parking lot located in an R-1 District...shall be screened from all contiguous residential property located in the R-1...District by a solid brick wall or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges or evergreen trees that are thickly planted and maintained and at least forty-two inches (42 in.) in height when planted.

(a) The parking lot shall be screened from all contiguous residential property located in the R-1, R-2 or R-3 district by a masonry wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high.

The parking lot is adequately screened from the residential properties to the north by a 2.5 foot high masonry wall, which is topped with a 3.5 foot high stockade fence. There is a wooded area on the south side of the fence, which provides additional buffer between the site and residential uses. A substantial landscape area is located along the east property line, consisting of several evergreen trees and shrubs that are a minimum of 42 inches high.

(b) All parts of the lot not devoted to parking area, driveway, access lane, attendant's shelter, or required screening walls shall be paved or landscaped. Landscaping shall be maintained in a health growing condition, and in a neat and orderly appearance.

CVS has hired a maintenance contractor to ensure that all paved and landscaped areas are maintained and in a neat and orderly appearance.

2303.5 The Board may require any special treatment of the premises that it deems necessary to protect the value of adjacent property.

The Office of Planning makes no special treatment recommendations.

The Office Planning concludes that the subject application satisfies the provisions of §§ 213 and 2303 and the criteria for special exception relief per § 3104.

VI. COMMUNITY COMMENTS

At its regularly scheduled meeting on October 3, 2012, ANC 3D approved the parking lot's continuation and its availability for neighborhood use.

VII. RECOMMENDATION

The Office of Planning finds the proposed application to be in conformance with the criteria contained within §§ 213 and 2303 of the Zoning Regulations, subject to a continuation of all of the current conditions, listed on pages two and three of this report, to ensure that it would have no adverse impacts on the surrounding community.